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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

WELDON, K

ART UNIT	PAPER NUMBER
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1734

DATE MAILED:

07/17/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

358280

Applicant(s)

Uffer

Examiner

K Webber

Group Art Unit

1734

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 5/17/00
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 5-17 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 5-9 + 10-16 is/are rejected.
- ☒ Claim(s) 10 + 11 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Pri rity under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

1. The request filed on May 17, 2000 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 358280 is acceptable and a CPA has been established. An action on the CPA follows.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chow in view of Phister.

The Chow patent discloses a misting apparatus including a "mist" nozzle (column 4 line 19), an air pump 26, an container outlet 58, a container inlet (column 5 line 45a), container 10 and valve 36 for controlling the spraywand 32. The claimed invention is distinguishable from Phister by its recitation of a first conduit inside the tank.

It is deemed to have been obvious to one of ordinary skill in the art to incorporate a first conduit inside the tank as taught by Phister at 16 that extends to the bottom of the tank to ensure complete dispensing of the contents.

4. Claims 7 and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chow in view of in view of Phister as applied above in view of Carter.

It is deemed to have been obvious to one of ordinary skill in the art to substitute a fanny pack liquid container as taught by Carter for the container in Chow as it is more convenient less strenuous to use than the cumbersome tank in Chow.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chow in view of in view of Phister as applied above and further in view of Jahraus.

The Jahruas patent discloses a spry system having a plurality of spray wands that are belted onto a person. The spray wands are held in position by clips 27. It is deemed to have been obvious to one of ordinary skill in the art to incorporate clips as taught by Jahraus to permit hands free operation of Chow's sprayer.

6. Claims 10 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

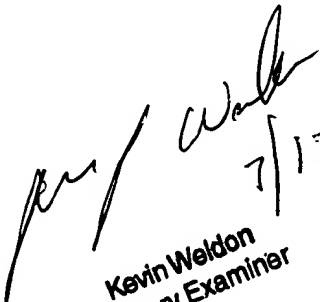
7. Applicant's arguments filed May 17, 2000 have been fully considered but they are not persuasive. The applicant argues that the Chow patent is not designed to be used in the vicinity of a person for cooling. The present claims or disclosure do not require that the mist nozzle is mounted near a person. The nozzle in Chow can be mounted near a person to cool down the person. Also the claim recites in the vicinity of a person not necessarily the "operator" as argued by applicant.

The drawings do not illustrate a fanny pack as admitted by the applicant. The applicant argues that the fanny pack is not essential to understanding the subject matter the examiner agrees but 1.83(a) still requires that the structure still be illustrated in the form of a graphical symbol or labeled representation.

8. The drawings are objected to under 37 CFR 1.83(a) because they fail to show a fanny pack style bag to allow wearing of the devices or uses a belt strap without a bag as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Correction is required.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Weldon whose telephone number is (703) 308-1117. The examiner can normally be reached on Tues-Fridays from 7 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rick Crispino, can be reached on (703) 308-3853. The fax phone number for this Group is (703) 305-7718.


7/17/00
Kevin Weldon
Primary Examiner